

INTER-OFFICE COMMUNICATION FROM

THE OFFICE OF

CLERK OF THE BOARD OF COUNTY COMMISSIONERS

DATE: December 9, 1986

TO: Jan Winters, County Administrator
Lisa Heasley, County Attorney's Office
Richard Graddock, Asst. Co. Attorney
David Bludworth, State Attorney
Joy Shearer, Asst. Attorney General
Lt. Jack H. Rochester, Sr. - Sheriff's Dept.-Civil
Jerry Nolan, Sheriff's Office-Admin.
John Lehner, PZ&B
Bob Palchanis, Building Division
Patty Young, 4th Dist. Ct. of Appeals
Law Library
County Library (2)
Pinky Yount, PBC Municipal League, Inc.
1708 N. Lakeside Drive, Lake Worth, FL 33460
Engineering
Pat Neville, Finance

FROM: John W. Dame
Chief Deputy Clerk

RE: PALM BEACH COUNTY ORDINANCE DISTRIBUTION

ORDINANCE NO. 86-39

TITLE REFERENCE:

**An Ordinance creating the Roadside Stand &
Peddlers Ordinance.**

Attached is a copy of the above referenced Ordinance of Palm Beach County. This Ordinance has been filed with Florida Department of State and forwarded to Municipal Code Corporation for codification. The effective date is December 8, 1986.

JWD:ph/lc
attachment

cc:* Commissioners, BCC
Clerk of BCC
Minutes

* If a copy of ord. is needed please advise Ms. Lorie Clinger, Finance Department at 837-2959.

ORDINANCE NO. 86- 39

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, CREATING THE ROADSIDE STAND AND PEDDLERS ORDINANCE; PROVIDING FOR TITLE; AUTHORITY; COMMERCIAL USE OF RIGHT-OF-WAY PROHIBITED WITHOUT PERMIT; PROHIBITION OF PEDDLING ON PUBLIC SIDEWALKS OR AREAS ABUTTING PUBLIC SIDEWALKS OR PUBLIC RIGHTS-OF-WAY; REQUIREMENTS FOR PERMITS; CRITERIA FOR PERMIT ISSUANCE; CONDITIONS OF PERMITS; REVOCATION OF PERMITS; APPEAL; VIOLATION OF ORDINANCE; REPEAL OF LAWS IN CONFLICT; SEVERABILITY; INCLUSION IN CODE; EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Palm Beach County now finds and determines that it is in the best interests of the residents and visitors of the County to regulate the commercial use of County owned or maintained rights-of-way and public sidewalks and to control the location, access, and type of commercial activities allowed on rights-of-way and sidewalks within the unincorporated areas of the County, and

WHEREAS, the primary purpose of the public rights-of-way and sidewalks in Palm Beach County is for the safe and efficient use by vehicular and pedestrian traffic, and

WHEREAS, the County has adopted a comprehensive approach to land use regulation to protect property values and the environment, and

WHEREAS, the unregulated use of public right-of-way will frustrate the County's land use objectives, and

WHEREAS, the County finds and determines that the limited use of rights-of-way and public sidewalks for the sale of limited commodities furthers the public interests by reducing the number and length of trips necessary to obtain every day commodities for the working population of the County, and

WHEREAS, the County further recognizes and determines that it is in the best interest of the citizens of Palm Beach County to allow for the regulated sales of fresh agricultural and prepared food products under specified conditions in areas of the County that are not abutting residentially zoned property or property which has been rejected for commercial zoning within the recent past.

1 NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY
2 COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA that:

3 SECTION 1 - TITLE:

4 This ordinance shall be cited as the "Roadside Stand and
5 Peddlers Ordinance".

6 SECTION 2 - AUTHORITY:

7 This ordinance is adopted pursuant to the authority granted to
8 charter counties under Article VIII, Section 1(g) of the State of Florida
9 Constitution and Chapter 125, Florida Statutes, Chapter 163.3161 et seq.,
10 Florida Statutes regarding local government comprehensive planning.

11 SECTION 3 - COMMERCIAL USE OF RIGHT-OF-WAY PROHIBITED WITHOUT
12 PERMIT:

13 It is unlawful and subject to the penalties provided in this
14 ordinance for any person or business entity to make any commercial use of
15 publicly owned or maintained rights-of-way or appendages thereto in the
16 unincorporated areas of Palm Beach County without first obtaining a
17 permit for a permissible use under Section 5 of this ordinance.
18 Commercial use shall be deemed to include, but not be limited to, the
19 sale or display for sale of any merchandise, service or the repairing of
20 any vehicles except for the rendering of emergency service, storage or
21 vehicles being serviced or repaired on abutting property or elsewhere,
22 the solicitation for the sale of goods, property, or services, whether
23 for profit or charity, or for the display or advertising of any kind.

24 SECTION 4 - PROHIBITION OF PEDDLING ON PUBLIC SIDEWALKS OR
25 AREAS ABUTTING PUBLIC SIDEWALKS OR PUBLIC RIGHTS-OF WAY:

26 It is illegal and subject to penalties provided herein for any
27 person or business entity on any public sidewalk or any area or doorway
28 or entranceway or property abutting a public sidewalk or public
29 right-of-way in the unincorporated area of Palm Beach County to peddle,
30 vend, or to solicit to street, sidewalk or road traffic the sale of real
31 or personal property, activities, excursions or trips except in
32 connection with an ongoing legally existing business which complies with
33 all applicable land development regulations and only to the extent
34 allowed in the zoning district applicable to the abutting property.

1 SECTION 5 - REQUIREMENTS FOR PERMITS:

2 The sale of agricultural products from stands meeting the
3 requirements of this ordinance and prepared food from mobile vendors may
4 be allowed on public rights-of-way in the unincorporated portion of Palm
5 Beach County provided the vendor first obtains a permit from the Palm
6 Beach County Engineering Department. The Engineering Department shall
7 only issue permits if the applicant meets the following requirements:

8 (A) Applies for the permit on a form provided by the
9 Engineering Department;

10 (B) The application includes a signed copy of the permit rules
11 listed in Section 6 of this ordinance certifying that the applicant has
12 read and understands the rules and agrees to abide by them.

13 (C) Has posted a One Thousand (\$1,000) Dollar performance bond
14 or other satisfactory security with the Engineering Department securing
15 any costs which might be incurred by the County due to the applicant's
16 noncompliance with this ordinance or damage resulting to roadway
17 pavements, sidewalks or other improvements.

18 (D) Has provided the County Engineer's Office with the name
19 and address of the upland property owner and any adjacent property owners
20 within 100 feet of the proposed roadside stand location, if said upland
21 or adjacent property is improved. The Engineer's Office will then send a
22 certified letter, return receipt requested to these property owners on
23 behalf of the permit applicant, advising them that they have fifteen (15)
24 days in which to object to the proposed permit. If the permit applicant
25 otherwise qualifies, the permit will automatically be issued after the
26 passage of fifteen (15) days if no objections are received.

27 (E) Provide a location sketch showing the width of pavement,
28 width of right-of-way and location of stand proposed in the right-of-way.

29 (F) Has submitted to the Engineering Department, a copy of a
30 liability insurance policy in the minimum amount of Two Hundred Thousand
31 (\$200,000) Dollars per occurrence naming Palm Beach County as an
32 additional co-insured party.

33 (G) Has submitted a One Hundred (\$100.00) Dollar permit
34 application fee at the time of filing the application.

1 (H) Has submitted a list of goods or items intended to be
2 sold.

3 (I) Has supplied a current State of Florida sales tax number.

4 SECTION 6 - CRITERIA FOR PERMIT ISSUANCE:

5 Prior to the issuance of any permits under this ordinance, the
6 Engineering Department shall determine that the following standards have
7 been met or exceeded by the applicant:

8 (A) The proposed location of the stand shall be no closer than
9 75' from any intersection of two rights-of-way.

10 (B) No more than two (2) roadside stands shall be permitted at
11 the same location, and no roadside stand location shall be within 500'
12 from another permitted roadside stand location.

13 (C) Adequate site distance exists to ensure a safe operation
14 of the roadside stand with respect to the normal movement of traffic in
15 relation to the stand's position on the right-of-way.

16 (D) The Department shall analyze traffic volumes during both
17 peak and non-peak hours when considering permit requests. The
18 Engineering Department may deny an application or restrict the operating
19 hours of roadside vendors based upon sound traffic engineering principles
20 when appropriate.

21 (E) No roadside stand shall be operated in such a fashion as
22 to block access to or damage or be located on pedestrian or bicycle
23 paths.

24 (F) No roadside stand shall be permitted within 500' of an
25 established ongoing legally zoned business selling similar commodities.

26 (G) No Roadside Stand shall be allowed to locate adjacent to
27 residentially zoned property or property which has been rejected for
28 commercial zoning under the Palm Beach County Zoning Code within the last
29 year.

30 SECTION 7 - CONDITIONS OF PERMITS:

31 All permits granted by the Engineering Department shall:

32 (A) Designate the location at which the seller may operate.

33 (B) List any special conditions necessary to assure compliance
34 with this ordinance and to protect the public from undue risk or harm.

(C) Obligate the permittee to keep the area free from garbage and litter and comply with all applicable health laws.

(D) Specifies the authorized hours of operation which shall be between 6:00 a.m. to one-half hour before sunset except as may be otherwise restricted by the Department and set forth on the face of the permit.

(E) Require that at the close of business for the day, all equipment used in the operation be removed from the road right-of-way for the night and not be replaced until the next authorized time of operation.

(F) No free standing signs, flags, or banners shall be permitted within the road rights-of-way.

(G) No stand permitted herein shall exceed 300 square feet and all such stands shall maintain mobility.

(H) All roadside vendors will be required to maintain a "minimum safe distance" of 15' between the edge of pavement and their vending stands or vehicles.

(I) All roadside vendors shall prominently display a colored, weatherproof vendor's license plate issued by the County Engineer.

(J) Vendors shall maintain the integrity of the pavement edge and stabilization of the road ~~be-should~~ in accordance with accepted Engineering standards.

SECTION 8 - REVOCATION OF PERMITS:

All permits granted by the Engineering Department shall automatically expire within a one (1) year period. A renewal fee of One Hundred (\$100.00) Dollars shall be submitted with a renewal application, to the Engineering Department. Documentation indicating continuing compliance with the requirements of this ordinance shall be submitted with such renewal request.

Permits may be revoked by the Engineering Department for failure to meet the requirements of this ordinance upon notification to the vendor and a complete review of all circumstances surrounding the alleged violation. Such review may be commenced upon receipt by the Engineering Department of a petition signed by 30 residents requesting the review of the validity of a permit or upon request of an adjacent

property owner on the same side of the road rights-of-way within 100' of permitted stand.

SECTION 9 - APPEAL:

An appeal may be filed concerning any permit revocation or denial, within 7 days after receipt of the denial or revocation. The applicant shall deliver a notice of appeal to the Engineering Department. The Engineering Department shall thereupon forward a notice of appeal together with a report of the circumstances surrounding the application to the Board of County Commissioners for consideration on the agenda at the next regularly scheduled County Commission meeting.

SECTION 10 - VIOLATION OF ORDINANCE:

Violation of this ordinance shall be a misdemeanor of the second degree punishable according to Florida Statutes.

SECTION 11 - REPEAL OF LAWS IN CONFLICT:

All local laws and ordinances applying to the unincorporated area of Palm Beach County in conflict with any provisions of this ordinance are hereby repealed.

SECTION 12 - SEVERABILITY:

If any section, paragraph, sentence, clause, phrase, or word of this ordinance is for any reason held by the Court to be unconstitutional, inoperative or void, such holding shall not affect the remainder of this ordinance.

SECTION 13 - INCLUSION IN THE CODE:

The provisions of this ordinance shall become and be made a part of the code of laws and ordinances of Palm Beach County, Florida. The Sections of the ordinance may be renumbered or relettered to accomplish such, and the word "ordinance" may be changed to "section," "article," or any other appropriate word.

SECTION 14 - EFFECTIVE DATE:

The provisions of this ordinance shall become effective upon receipt of acknowledgement by the Secretary of State. ~~for-the-purposes of receiving-applications-for-permits,-however-the-restrictions-set--- forth in-this-ordinance-shall-not-be-enforced-until-the-lapse-of-thirty----- (30)-days-following-the-receipt-of-the-acknowledgement-by-the-Department of-State,-State-of-Florida-~~

1 SECTION 15 - SUN SET PROVISION:

2 This ordinance shall automatically expire one year after the
3 effective date, unless reenacted by the Board of County Commissioners.

4 APPROVED AND ADOPTED by the Board of County Commissioners of
5 Palm Beach County, Florida, on the 25th day of November, 19 86.

6 PALM BEACH COUNTY, FLORIDA, BY ITS
7 BOARD OF COUNTY COMMISSIONERS

8 By Karen Marcus

9 Chairman

10 APPROVED AS TO FORM AND
11 LEGAL SUFFICIENCY

12 [Signature]

13 County Attorney

14 Acknowledgement by the Department of State of the State of
15 Florida, on this, the 4th day of December, 19 86.

16 EFFECTIVE DATE: Acknowledgement from the Department of State
17 received on the 8th day of December, 19 86, at 3:08
18 P.M., and filed in the Office of the Clerk of the Board of County
19 Commissioners of Palm Beach County, Florida.

STATE OF FLORIDA, COUNTY OF PALM BEACH
I, JOHN B. DUNKLE, ex-officio Clerk of the
Board of County Commissioners certify this to
be a true and correct copy of the original filed in
my office on November 25, 1986
DATED at West Palm Beach, FL on 11/29/86
JOHN B. DUNKLE, Clerk
By: [Signature] D.C.
Deputy Clerk